

**Richard D. Coit**

*Executive Director*

*rdcoit@sd.cybernex.net*

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November 1, 2000

Ms. Magalie Roman-Salas  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Re: CC Docket # 96-45  
In the Matter of Federal-State Joint Board on Universal Service

Dear Ms. Roman-Salas:

Enclosed please find one original and four copies of the Comments of the South Dakota Independent Telephone Coalition, Inc. in reference to CC Docket No. 96-45 in response to Public Notice FCC-00J-3. In accordance with the instructions in the Public Notice, three copies have also been sent to Sheryl Todd and an electronic disk copy has been sent to the Commission's copy contractor, International Transcription Service and copies have been sent to all other persons on the service list.

Thank you for your assistance.

Sincerely,



Richard D. Coit  
Executive Director and  
General Counsel

Attachments

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of )  
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Federal-State Joint Board )  
on Universal Service )

CC Docket No. 96-45  
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COMMENTS OF  
SOUTH DAKOTA INDEPENDENT TELEPHONE COALITION  
ON THE RURAL TASK FORCE RECOMMENDATION TO THE  
FEDERAL-STATE JOINT BOARD ON UNIVERSAL SERVICE

Richard D. Coit  
General Counsel

320 East Capitol Avenue  
PO Box 57  
Pierre, SD 57501-0057

14% number and SDITC would encourage the Joint Board to do more study and arrive at a factor that is less of a disincentive to rural area investment.

### **III. Disaggregation and Targeting of Support.**

The RTF recommends a flexible system by which a company may disaggregate federal high cost support within its study area. Carriers would choose to follow one of three disaggregation “Paths” based on their specific needs, either: (1) certifying to the state commission that it chooses not to disaggregate; (2) filing a company specific disaggregation plan with the state commission for regulatory approval; or (3) presenting a self-certified filing to the state commission which disaggregates support into no more than two cost zones per wire center.

SDITC agrees that disaggregation is imperative at the point where competition enters the rural carrier service area. Disaggregation is necessary to accurately target support and to prevent cream skimming by new entrants that may only be interested in serving the most attractive pockets in rural areas. SDITC also agrees with the RTF decision to permit LECs to choose between various disaggregation paths as a means of taking into account individual company circumstances.

Nonetheless, SDITC does not believe that the proposal to limit disaggregation to two zones per wire center under “Path 3” is adequate or fair. Effectively, the RTF proposes to establish two zones as the standard for disaggregation, but leaves carriers some supposed flexibility to pursue other options. The RTF’s White Paper No. 5 emphasizes the need to accurately target support within high-cost areas.<sup>8</sup> In addition, the need to achieve competitive neutrality through proper disaggregation is referenced as an important goal.<sup>9</sup> SDITC believes that the diverse population characteristics and terrain found in rural service areas renders the proposed two zones within Path 3 wholly inadequate. Limiting the disaggregation of universal

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<sup>8</sup> White Paper No. 5, “Competition and Universal Service”, pp. 15, 18.

<sup>9</sup> White Paper No. 6, “Disaggregation and Targeting of Universal Service Support”, p. 3.

being necessary for universal service, SDITC is concerned. It is our belief that any cap will in some cases slow the deployment of new technology and advanced services in high cost rural areas. This potential is contrary to the provisions found in Section 254 of the Communications Act which are intended to renew and actually strengthened the national commitment to universal service and also the provisions in Section 706 of the Act which are intended to encourage the reasonable and timely deployment of advanced telecommunications services to all Americans.

The RTF as part of its Recommendation asks that a “no barriers to advanced services” policy be adopted and specifically states that this policy should allow universal service funding to “support plant that can, either as built or with the addition of plant elements, when available, provide access to advanced services.”<sup>6</sup> In addition, it is stated that “the federal universal service support fund should be sized so that it presents no barriers to investment in plant needed to provide access to advanced services.”<sup>7</sup> Despite the various RTF proposals that would incorporate flexibility into the new cap that is proposed, there will be instances where carriers will be deprived of valid recovery and this seems counter to these stated “no barrier” principles.

SDITC urges the Joint Board to give the utmost priority to making sure that universal service support is sufficient for all areas and to steer clear of any cap on the high cost fund. If the Joint Board, however, concludes that a cap should be maintained on the High Cost Loop fund, SDITC believes a lowering of the RTF’s 14% safety net qualification factor should be considered. It is our understanding that the RTF arrived at this percentage by simply doubling the average of the Rural Growth Factor in recent years. Past experience in South Dakota indicates that this percentage is too extreme and that it would only very rarely offer any additional assistance to carriers that are making substantial and necessary infrastructure investments. At this point there does not appear to be much of an evidentiary record behind the

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<sup>6</sup> RTF Recommendation, p. 22.

<sup>7</sup> Id. at p. 23.

as “modified” because it takes into account some of the weaknesses of the current system and includes certain modifications to address these weaknesses and to adapt the mechanism to the current environment.<sup>4</sup>

SDITC strongly supports these conclusions of the RTF and believes they cannot reasonably be challenged. The decision to use an embedded cost method rather than a proxy method to identify universal service costs is supported by substantial data documenting the differences between rural service areas and rural carriers and is also consistent with various provisions in the Communications Act which recognize the unique circumstances faced by rural carriers. In the Telecommunications Act of 1996, Congress rejected a one-size-fits-all approach for telecommunications companies, and enacted special provisions for rural telephone companies.<sup>5</sup> These provisions provide clear legal grounds for the RTF decision to treat rural carriers differently in recommending a new universal service support mechanism.

## **II. Cap on High Cost Loop Support.**

The RTF recommends that the current High Cost Loop fund be rebased and that a new cap factor be applied on a going-forward basis. The new cap would be indexed annually by applying a “Rural Growth Factor” that would be based on an annual inflation factor and also growth in loop counts. In addition, a “safety net” would be established allowing for additional universal service support where a carrier’s growth in telecommunications plant in service for any single year is greater than 14%. SDITC supports all of these proposals that would incorporate more flexibility into the existing cap mechanism.

All of the cap changes proposed by the RTF are positive, but insofar as any fund cap has the potential to deny recovery for infrastructure investments that would otherwise qualify as

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<sup>4</sup> RTF Recommendation, p. 21.

<sup>5</sup> 47 U.S.C. Section 153(37); Section 251(f); Section 253(f); Section 254(b)(3); Section 254(h); Section 214(e)(2); and Section 214(e)(5).

Recommendation more saleable to the entire telecommunications industry, but it should not in any way dictate the final result. The RTF has itself stated that “the heart of the Congressional directive is contained in the universal service principles of Section 254.”<sup>1</sup> Section 254(b) expressly states that universal service support should not only be “specific” and “predictable”, but also “sufficient.” SDITC urges the Joint Board to consider the MAG Plan in tandem with the RTF recommendation and to stay committed in its review process to meeting all of the federal principles including the sufficiency criteria.

#### **I. Use of a Modified Embedded Cost Mechanism.**

As indicated by its final report, the RTF gave careful consideration to the proxy cost model used within the universal service support mechanism adopted for non-rural carriers. The RTF after much study determined that the “Synthesis Model” developed for determining non-rural carrier universal service support would not be an appropriate tool for establishing a new rural carrier universal service support mechanism. The RTF concluded that the proxy Synthesis Model would not produce a sufficient universal service mechanism for rural carriers that is in the public interest and consistent with the principles of the 1996 Act.<sup>2</sup> These conclusions of the RTF are based on significant empirical data, compiled and evaluated, which shows very clearly that population, geographic and demographic differences between rural areas and the diverse size and operations of rural carriers across the country make it impossible to develop a rural carrier proxy model that is workable for universal service support purposes.<sup>3</sup> The RTF thus concluded that the only acceptable method of determining universal service costs and support for rural carriers would be one that is based on actual embedded costs. Specifically, the RTF recommends the adoption of a “Modified Embedded Cost Mechanism.” The mechanism recommended is labeled

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<sup>1</sup> Rural Task Force Recommendation, released September 29, 2000, p. 7.

<sup>2</sup> RTF Recommendation, p. 20.

<sup>3</sup> See RTF White Paper No. 2, “The Rural Difference”.

become more competitive. Many of the proposals contained in the RTF Recommendation would improve the current rural carrier support mechanism and the Recommendation also gives proper recognition to the need for additional universal service in conjunction with undertaking any interstate access reform. SDITC commends the RTF for its substantial work and generally supports the RTF Recommendation.

In some limited respects, however, SDITC believes the RTF's Recommendation falls short of meeting the specific mandate found in Section 254(b)(4) of the Communications Act for "sufficient" Federal and State mechanisms to preserve and advance universal service. Since release of the RTF Recommendation a group of national telecommunications organizations consisting of the National Rural Telecom Association ("NRTA"), National Telephone Cooperative Association ("NTCA"), Organization for the Protection and Advancement of Small Telephone Companies ("OPASTCO"), and the United States Telecom Association ("USTA") have filed with the Commission a Petition for Rulemaking. In this Petition, dated October 20, 2000, these organizations, identifying themselves as the LEC "Multi-Association Group" ("MAG") have presented a holistic plan for reforming the Commission's regulation of incumbent LECs that are not subject to price cap regulation (non-price cap LECs, including all rural carriers). The plan presented by MAG to the Commission offers a comprehensive approach that is intended to address not only universal service reform, but also interstate access reform and incentive regulation. This comprehensive plan takes the same policy direction as the RTF Recommendation, but with respect to universal service reform there are some differences. In general, SDITC believes that the MAG Plan with these differences is more in line with the intent of Congress as demonstrated by the universal service principles stated in Section 254 of the Communications Act. The Federal-State Joint Board should keep in mind that the RTF Recommendation is a consensus proposal developed by individuals primarily outside the small, rural carrier segment of the communications industry. This fact may make the RTF

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
Federal State Joint Board	)	CC Docket No. 96-45
On Universal Service	)	FCC 00J 3

**COMMENTS OF  
SOUTH DAKOTA INDEPENDENT TELEPHONE COALITION  
ON RURAL TASK FORCE RECOMMENDATION**

The South Dakota Independent Telephone Coalition, Inc. ("SDITC") submits these comments in response to the Commission's Public Notice issued in CC Docket No. 96-45 on October 4, 2000. By such Notice the Commission is asking that comments be submitted to the Federal-State Joint Board on universal service regarding the recent Rural Task Force Recommendation that includes various proposals for revising the federal universal service support mechanism for rural carriers. SDITC is an organization representing the interests of numerous independent, cooperative and municipal local exchange carriers in the State of South Dakota (attached as Appendix A hereto is a listing of the current SDITC member local exchange carriers "LECs"). All of the SDITC member LECs are "rural telephone companies" as defined in 47 U.S.C. § 153(37) and all have been designated as eligible telecommunications carriers ("ETCs") within their established rural service areas. As rural telephone companies committed to meeting universal service obligations within their service areas, all of the SDITC member LECs have a strong interest in this proceeding and will be impacted by any of the proposals that are ultimately adopted.

Generally, with respect to the Rural Task Force ("RTF") Recommendation, SDITC sees the specific proposals presented as very positive. The Recommendation appropriately recognizes all of the unique problems that are presented in converting the present system of federal universal service support to a mechanism that will be sustainable and sufficient as markets

service support to only two zones would not in many cases come close to fairly targeting support. Those areas most in need of support could be deprived of universal service funding and an unfair arbitrage opportunity would be created for competitive eligible telecommunications carriers. The process for porting support between competing carriers based on only one of the carrier's costs in itself creates arbitrage opportunities, this should not be worsened by mandating disaggregation at an insufficient level.

Path 2 of the RTF's Recommendation may be offered as a solution for those cases where two zones would not be adequate, but as specifically written it does not seem to offer a feasible alternative. Under Path 2, the carrier would develop its own plan and then would have to obtain state commission approval of the same through what would likely be an extensive administrative review process. The approved plan would then be "subject to change or challenge at any time." The entire process contemplated would be a lengthy and expensive one, and carriers would also be faced with the prospect of having to repeat the process at any time. Given these specifics, SDITC's questions whether Path 2 actually provides a realistic option for disaggregating support at a greater level.

SDITC therefore suggests that the Joint Board consider allowing for at least three disaggregation zones per wire center under Path 3, for those carriers who self-certify. Doing so would be relatively simple, inexpensive to administer, and easily understandable. The end result would be a more accurate representation of actual costs of providing service, and would produce a better match of support with costs. A reasonable matching of support with costs will provide support to all ETCs that is more consistent with cost relationships which will minimize opportunities for competitive ETCs to "cream skim" the incumbents' service areas. A three zone disaggregation plan is embraced in the MAG Plan, and SDITC reiterates its support for a Joint Board decision in the present proceeding that is carefully coordinated with the MAG Plan.

Susan Stevens Miller  
Assistant General Counsel  
Maryland Public Service Commission  
6 Paul Street, 16<sup>th</sup> Floor  
Baltimore, MN 21202-6806

Tom Wilson, Economist  
Washington Utilities & Transportation Comm.  
1300 Evergreen Park Drive SW  
P.O. Box 47250  
Olympia, WA 98504-7250

Philip McClelland  
Senior Assistant Consumer Advocate  
PA Office of Consumer Advocate  
555 Walnut Street, Forum Place, 5<sup>th</sup> Floor  
Harrisburg, PA 17101-1923

Barbara Meisenheimer, Consumer Advocate  
Missouri Office of Public Counsel  
301 W. High St., Ste. 250, Truman Building  
PO Box 7800  
Jefferson City, MO 65102

Earl Poucher, Legislative Analyst  
Office of the Public Counsel  
111 West Madison, Room 812  
Tallahassee, FL 32399-1400

Ann Dean, Assistant Director  
Maryland Public Service Commission  
6 Paul Street, 16<sup>th</sup> Floor  
Baltimore, MD 21202-6806



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Richard D. Coit, Executive Director  
South Dakota Independent Telephone Coalition  
Post Office Box 57  
207 East Capitol Avenue, Suite 206  
Pierre, SD 57501-0057

**Members of the South Dakota Independent Telephone Coalition**

Accent Communications, Inc.  
Armour Telephone Company  
Baltic Telecom Cooperative  
Beresford Municipal Telephone Company  
Bridgewater-Canistota Independent Tele.  
Brookings Municipal Telephone  
Cheyenne River Sioux Tribe Tele. Auth.  
Dakota Community Telephone  
East Plains Telecom. Inc.  
Faith Municipal Telephone  
Fort Randall Telephone Company  
Golden West Telecommunications Coop. Inc.  
Hanson County Telephone Company  
Interstate Telecomm. Coop., Inc.  
James Valley Cooperative Telephone  
Jefferson Telephone Company  
Kadoka Telephone Company  
Kennebec Telephone Company  
McCook Cooperative Telephone Co.  
McCook Telecom  
Midstate Telephone Company  
Mt. Rushmore Telephone Company  
Roberts County Telephone Coop. Assn.  
RC Communications, Inc.  
Sanborn Telephone Cooperative  
Sancom, Inc.  
Sioux Valley Telephone Company  
Splitrock Properties, Inc.  
Splitrock Telecom. Cooperative, Inc.  
Stateline Telecommunications, Inc.  
Stockholm-Strandburg Telephone Co.  
Sully Buttes Telephone Cooperative  
Tri-County Mutual Telephone Company  
Union Telephone Company  
Valley Telecomm. Coop. Assn., Inc.  
Vivian Telephone Company  
West River Coop. Telephone Company  
West River Telecomm. Cooperative  
Western Telephone Company

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The Honorable Laska Schoenfelder  
Commissioner, State Joint Board Chair  
South Dakota Public Utilities Commission  
State Capitol, 500 East Capitol Avenue  
Pierre, SD 57501

David Dowds, Public Utilities Supervisor  
Florida Public Service Commission  
2540 Shumard Oaks Blvd.  
Gerald Gunter Building  
Tallahassee, FL 32399-0850

The Honorable Martha Hogerty, Public Counsel  
Missouri Office of Public Counsel  
301 W. High St., Ste. 250, Truman Building  
P.O. Box 7800  
Jefferson City, MO 65102

The Honorable Bob Rowe, Commissioner  
Montana Public Service Commission  
1701 Prospect Avenue  
P.O. Box 202601  
Helena, MT 59620-2601

The Honorable Patrick H. Wood, Chairman  
Texas Public Utility Commission  
1701 North Congress Avenue  
P.O. Box 13326  
Austin, TX 78711-3326

The Honorable Nanette G. Thompson, Chair  
Regulatory Commission of Alaska  
1016 West Sixth Avenue, Suite 400  
Anchorage, AK 99501-1693

Rowland Curry, Chief Engineer  
Texas Public Utility Commission  
1701 North Congress Avenue  
P.O. Box 13326  
Austin, TX 78711-3326

Greg Fogleman, Economic Analyst  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Gerald Gunter Building  
Tallahassee, FL 32399-0850

Mary Newmeyer, Federal Affairs Advisor  
Alabama Public Service Commission  
100 N. Union Street, Suite 800  
Montgomery, AL 36104

Joel Shifman, Senior Advisor  
Maine Public Utilities Commission  
242 State Street, State House Station 18  
August, ME 04333-0018

Peter Bluhm, Director of Policy Research  
Vermont Public Service Board  
Drawer 20  
112 State Street, 4<sup>th</sup> Floor  
Montpieller, VT 05620-2701

Charlie Bolle, Policy Advisor  
Nevada Public Utilities Commission  
1150 East Williams Street  
Carson City, NV 89701-3105

Carl Johnson, Telecom Policy Analyst  
New York Public Service Commission  
3 Empire State Plaza  
Albany, NY 12223-1350

Lori Kenyon, Common Karrier Specialist  
Regulatory Commission of Alaska  
1016 West 6th Avenue, Suite 400  
Anchorage, AK 99501

## **CERTIFICATE OF SERVICE**

I hereby certify that an original and four (4) copies of the foregoing document were sent by Federal Express on the 1st day of November, 2000 to:

Magalie Roman Salas  
Office of the Secretary  
Federal Communications Commission  
445 Twelfth Street SW, Room TW-A325  
Washington, DC 20554

Three copies were sent by First Class Mail via U.S. Postal Service to:

Sheryl Todd  
Accounting Policy Division  
Federal Communications Commission  
445 Twelfth Street SW, Room 5-B540  
Washington, DC 20554

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International Transcription Service  
445 Twelfth Street SW, Room CY-B400  
Washington, DC 20554

One copy was sent by First Class Mail via U.S. Postal Service to the following persons:

The Honorable Susan Ness  
Commissioner, FCC Joint Board Chair  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Rm. 8-B115H  
Washington, DC 20554

The Honorable Harold Furchtgott-Roth  
Commissioner  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Rm. 8-B115H  
Washington, DC 20554

The Honorable Gloria Tristani  
Commissioner  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Rm. 8-B115H  
Washington, DC 20554

The Honorable Michael Powell  
Commissioner  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Rm. 8-A204  
Washington, DC 20554

As another means of addressing the concern, the Joint Board should at least consider revising Path 2 to indicate that any disaggregation plan that is given state commission approval under such Path would be in effect for a minimum period of years. This would allow for greater stability and perhaps bring more justification to pursuing Path 2 as an option for disaggregating support within a rural service area.

#### **IV. Conclusion.**

SDITC agrees with the core recommendations of the RTF. Consequently, it urges the Joint Board to adopt the recommendations to use modified embedded costs and to remove the interim cap on the high cost fund. In no event should the level of support be less than that recommended under the rebased approach. SDITC also supports quick action on the recommendation and a five-year plan. Quick action is needed and consistency and parallel timing with the MAG Plan are essential to provide regulatory certainty for companies that operate under rate of return. Ultimately, the Joint Board should recommend complete removal of all caps and be guided by the Act's requirement that support must be sufficient to achieve the goal of rate and service comparability between urban and rural areas.

Dated this 1st day of November, 2000.

Respectfully submitted,

South Dakota Independent Telephone Coalition

By: 

Richard D. Coit,  
General Counsel and Executive Director  
(605) 224-7629